

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RONALD E. MANN,

Plaintiff,

vs.

NANCY A. BERRYHILL, Acting
Commissioner of the Social Security
Administration,

Defendant.

4:18-CV-3022

MEMORANDUM AND ORDER

This matter is before the Court upon the plaintiff's Motion for Award of Attorney Fees and Costs under the Equal Access to Justice Act, [28 U.S.C. § 2412\(d\)](#). [Filing 24](#). The defendant has no objection to an award of attorney's fees in the amount of \$4,153.04, which represents 19.8 hours of work in 2018 at a rate of \$201.60 per hour and 0.8 hours of work in 2019 at a rate of \$201.70 per hour.¹ [Filing 24-2](#); [filing 26](#). The defendant also does not object to taxation of costs, but requests that the filing fee cost of \$400.00 be separately taxed to the Judgment Fund of the United States Treasury. [Filing 26](#).

The Court has determined that plaintiff was the prevailing party in this action, as the Commissioner's decision was reversed and the case was remanded to the Commissioner for further proceedings; that the application for fees was filed in a timely fashion;² and that the position of the

¹ The maximum hourly fee of \$125 specified in [28 U.S.C. § 2412\(d\)\(1\)\(D\)\(2\)\(A\)](#) was adjusted to account for inflation. See [filing 25 at 2](#).

² An Equal Access to Justice Act application based on a district court judgment remanding a case pursuant to sentence four of [42 U.S.C. § 405\(g\)](#) must be filed no later than 30 days after the sentence four judgment has been entered and the appeal period has run such that the

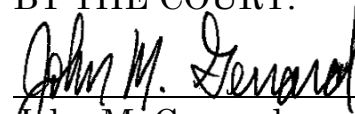
Commissioner was not substantially justified because the administrative law judge failed to develop the record and made findings that were not supported by medical evidence. See *Koss v. Sullivan*, 982 F.2d 1226 (8th Cir. 1993). Therefore, the plaintiff is entitled to an award of attorney fees and costs.

IT IS ORDERED:

1. The plaintiff's Motion for Award of Attorney Fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d) (filing 24) is granted.
2. The defendant's request for Taxation of Costs to the Judgment Fund (filing 26) is granted.
3. By separate document, the Court shall enter judgment for the plaintiff and against the defendant providing that the plaintiff is awarded attorney fees of \$4,153.04 to be paid by the Social Security Administration, and costs of \$400.00 taxed to the Judgment Fund of the United States Treasury.

Dated this 8th day of April, 2019.

BY THE COURT:



John M. Gerrard
Chief United States District Judge

judgment is no longer appealable. See *Pottsmith v. Barnhart*, 306 F.3d 526, 527-28 (8th Cir. 2002); see also *Shalala v. Schaefer*, 509 U.S. 292, 302 (1993); *Melkonyan v. Sullivan*, 501 U.S. 89, 94-97 (1991).